



Government Response to 2009 Consultation on the Renewables Obligation (Amendment) Order (Northern Ireland) 2010

1. INTRODUCTION

On 2 October 2009 the Department of Enterprise, Trade and Investment (DETI) issued its Statutory Consultation document on the proposed amendments to the Northern Ireland Renewables Obligation (NIRO). The consultation detailed those changes intended to implement the NIRO in 2010. Some of the consultation mirrored and summarised the proposals published in July¹ by the Department of Energy and Climate Change (DECC), which were also subject to a similar consultation by the Scottish Government. It also asked some Northern Ireland specific questions, primarily on the incentivisation of electricity generation in the light of the proposed introduction of the small-scale feed-in tariff in the rest of the UK.

We received 92 responses, including 41 which were identical in content, from a variety of sources. **We are grateful to all of those who replied for taking the time and trouble to write often detailed analysis of and suggestions on the proposals.** Appendix A provides a list of respondents.

This paper outlines DETI's policy conclusions following its consideration of responses to the NIRO Consultation. The following paragraphs report on specific issues raised by the Consultation and the subsequent policy position adopted by the Department. The various sections follow the chapters as presented in the Statutory Consultation.

¹ http://www.decc.gov.uk/en/content/cms/consultations/elec_financial/elec_financial.aspx

CHAPTER 2: STRUCTURAL CHANGES

Extension of the NIRO to 2033

There was strong support for an extension to the NIRO to 2033; however the majority of respondents favoured an extension to 2037 in line with the GB proposal or to 2040.

DETI understands the need for long term signals on the RO. However, as stated in the consultation, we wish to take account of the outcome of work currently being undertaken by the Department in conjunction with NIAUR on future renewables support mechanism with reference to the Department of Energy & Climate Change (DECC) proposals to introduce a Feed-in Tariff arrangement for small-scale generation. Once this is complete, we will review the extension of the NIRO once again.

We will therefore, at this stage, to extend the NIRO to 2033 and keep further extension under review once economic analysis has been completed.

20-year support period

The majority of respondents were in favour of a 20 year limit on support for projects. However, some, primarily those affected by the decision, wanted the 20 year support period to apply to all projects, including those stations that became accredited between 1 April 2007 and 25 June 2008, and put forward the view that not to do so would be discriminatory against early movers.

Whilst accepting that this will mean that a small number of generators receive slightly less than 20 years' support, this has to be balanced against the fact that the generators making investment decisions before 26 June 2008 did so on the basis of a 2027 end date for the RO and in the full knowledge that they would receive less than 20 years' support.

Therefore eligibility for the 20 year support will apply to projects which receive full accreditation on or after 26 June 2008, up to the 2033 end date.

There was almost unanimous agreement that additional capacity or plant that is refurbished or replaced should be entitled to the full 20 years' support, regardless of when the original capacity started to receive support. There was some debate about the definitions of 'refurbishment' and 'replacement'. **The Department therefore proposes that additional capacity receiving full accreditation on or after 26 June 2008 will qualify for 20 years support from the date it is first accredited up to the 2033 end date. However further work will be required on the definition of refurbishment and replacement and therefore we will not seek to legislate on this issue this year.**

Removal of the 20 ROC/100MWh limit on the NIRO

The majority of respondents supported the proposal that would remove the restriction on our ability to reach the new higher renewable electricity targets needed by 2020. **The Department will remove the 20% ceiling and will not impose a new limit.**

Headroom

The headroom mechanism is intended to help stabilise the price of ROCs by ensuring that there is always a positive gap between demand for ROCs (as expressed in the obligation level set by the RO) and supply (as determined by actual renewable electricity generation levels) and that that gap is kept at as steady a level as possible.

As the price of ROCs is driven by the balance of this supply and demand, the headroom mechanism should therefore bring a greater degree of stability to the ROC price enabling investors to have a higher degree of certainty on returns. The consultation proposed increasing the headroom level in 0.5% increments from the current 8% to 10% in 2014/15.

There was strong agreement for the increase in headroom, however the majority of respondents called for an immediate increase to 10% rather than an incremental one and there was a similar response to the DECC and Scottish consultation. Given that the Obligation level for 2010/11 is now set, we do not think it appropriate to change the level of headroom for the 2010/11 Obligation period. However, in order to increase investor certainty, **The Department will introduce the 10% headroom level from April 2011.** It will operate alongside current fixed targets until 2015.

Calculating the level of the obligation

The changes made to the NIRO to effect the introduction of banding in April 2009 included a series of provisions establishing how the levels of a banded Obligation should be calculated. That process has recently taken place for the first time, leading to an announcement before the end of October (as required by the legislation) of the Obligation level for 2010/11.

The calculation process is led by DECC, with input from Northern Ireland and the Scottish Government, Ofgem and others. DECC has set up an expert working group to identify the methodology to calculate the relative potential levels of the obligation, including identifying relevant information to be used. The DETI consultation invited suggestions as to sources of information to be used and comments on the relative values of those already identified. There was general agreement that the current model assuming 1% growth in electricity demand year on year could not continue to be used given the decreased demand due to the economic downturn. Several respondents acknowledged the difficulties in accurately predicting future electricity demand given the wide range of influencing factors and suggested that any future methods of setting the obligation levels need to be robust and accurate.

There was widespread agreement to the proposal that in determining the number of ROCs that could be presented, it is necessary to take account of the number of ROCs on the Ofgem ROC Register which are listed as banked from the previous obligation period. This would be taken account of by examining real data for number of ROCs banked in previous obligation periods and modelling for future periods.

Our DECC colleagues have proposed the following timetable and process with respect to calculating future Obligation levels:

Jan 2010	Lessons learned meeting with industry representatives
Feb – Jul	Work with industry representatives to test assumptions, including: testing electricity demand predictions; testing load factors; exploring issues around intermittency; looking at co-firing assumptions; and checking RESTATs data for future generation.
June 2011/12	Letters to developers checking build status on projects for
July	Publish draft obligation levels
Aug/Sep	Meeting with Industry representatives to discuss draft obligation levels
1 Oct 2010	Publish 2011/12 obligation levels

The Department agrees that this approach is sensible, and intends to play its full part in the process to ensure that the NI view is fully represented.

NIROC revocation

The consultation explored how to deal with the revocation of ROCs where they have been wrongly presented by suppliers.

There was overwhelming support for the proposal to offset redeemed ROCs against a generator’s future output; however the majority of respondents favoured a two year time limit within which Ofgem could revoke any such ROCs rather than the proposed six year limit.

However, requiring more regular audits would create additional costs; in the absence of any evidence that these would be justified, we agree that the original proposal that Ofgem would have six years to take action should stand.

The Department proposes, in line with the other ROs, to allow Ofgem to offset ROCs presented incorrectly against a generator's future allocation. Ofgem will have six years from the date of ROC allocation in order to take action. In the case of a generator not being able to produce ROCs, no action will be taken against a supplier.

3 month average for measurement of AD feedstock

There was agreement to the proposal to extend the measurement period for AD feedstock to three months from the current 1 month period to reflect the fact that new substances are not necessarily added to an anaerobic digester each month.

Ofgem, which administers the NIRO on behalf of the NIAUR, now believes that the current legislation is adequate in relation to allowing it to consider dry mass inputted into an anaerobic digester in the previous three months if this is appropriate. We will therefore not amend the Order in relation to this issue.

Sustainability – Indirect effects of by-products and wastes

There were mixed views on the proposal not to impose a restriction on the use of tallow in the NIRO until clarity of the new marketplace has been established. The need for sustainability issues to be fully considered was highlighted in a number of responses. **The Department will not impose a restriction until the outcome of the DECC study is known.**

Sustainability reporting

To remove sewage and landfill gas from the requirement for sustainability reporting – sewage gas is the product of biomass and a large part of the material sent to landfill is also biomass in origin. Both of these types of generation are caught under the current provisions in the Renewables Obligation Order (NI) 2009 to provide sustainability reports. We do not believe this adds value since the aim of sustainability reporting is to incentivise the most sustainable forms of biomass and co-firing and address key concerns over e.g. land use change. However since sewage and landfill gas are waste products, they are not likely to be able to be sourced and operators will only be able to state that the source is unknown and this has the potential to skew statistics on sustainability supporting. **We will therefore exempt sewage and landfill gas from sustainability reporting** – except where biomass e.g. food waste is added to sewage.

Co-firing cap

The consultation sought views on retaining the co-firing cap at 12.5%, which was introduced to alleviate concerns that if not restrained, co-firing ROCs might flood the ROC market, significantly decreasing the value of ROCs for other technologies.

Most of those who responded were in favour of retaining the 12.5% cap. Arguments for retention included concerns that any increase would add additional volatility to headroom calculations and ROC price predictions. Some respondents suggested that the cap should not apply to heat generation. **The co-firing cap will remain unchanged at 12.5% for the time being.**

CHAPTER 3: SMALL SCALE GENERATION IN NORTHERN IRELAND

Proposals for a Feed-In Tariff (FIT) in Great Britain

The consultation outlined proposals for the introduction of a FIT in GB with effect from 1 April 2010. It stated that Northern Ireland does not have legislative powers similar to those introduced in GB through the Energy Act 2008 and therefore is unable, at this stage, to introduce a FIT for Northern Ireland. DETI has commissioned, with NIAUR, further analysis on the costs of support for microgeneration in NI.

The consultation therefore proposed that, on the introduction of a FIT in GB, there should be an interim change to increase support for NI small-scale generation under the NIRO to replicate, so far as possible in NI the support levels being proposed under the FIT. The following levels of support were proposed for all **new** eligible projects from 1 April 2010:

	NI ² (NIROCs)	GB ³ (p/kWh)
Existing Microgeneration (All Technologies)	2 NIROCs	9
<u>Wind</u> Up to 250 kW 250kW – 5MW	4 NIROCs 1 NIROC	18 - 30.5 4.5 - 16
<u>Hydro</u> Up to 100kW 100kW – 5MW	4 NIROCs 1 NIROC	12-17 4.5 – 8.5
<u>PV</u> Up to 50kW 50kW – 5MW	4 NIROCs 2 NIROCs ⁴	28 – 31 26 - 28
<u>Biomass</u> Up to 50kW 50kW – 5MW	2 ROCs 1.5 ROC	9 4.5
<u>AD</u> Up to 50kW 50kW – 5MW	2 NIROCs 2 NIROCs	9 9

There was overwhelming support for a FIT for small scale generation to be introduced in Northern Ireland which was aligned to GB. Reasons offered included: the importance of retaining consistency with GB; a provision of more secure source of income which can be used to secure capital for the installation of small-scale systems; the fact that FITs operate in most other European countries (including the Republic of Ireland).

Nearly all respondents felt that any FIT in NI should follow the criteria set out in the GB FIT. Some suggested that those up to 50kW should transfer automatically to a FIT whilst those up to 5MW having the choice between the

² NIROCs currently trade at around £45 (equivalent to 4.5p per KWh)

³ The range represents different FIT rates for differing capacity levels with lower capacity levels awarded the higher amounts in the range

⁴ The consultation document incorrectly stated 1 NIROC for PV between 50kW and 5 MW

FIT and RO. There was also agreement that any new projects being supported under the proposed interim arrangements should be grandfathered in the event of any new support mechanism being introduced in the future.

A common concern raised was the proposed interim level of ROCs for AD for all sizes of generation. The 2 ROCs was seen to be undervaluing the importance of AD and it was suggested that AD with CHP should be raised to 3 ROCs to bring more into line with the proposed GB FIT of 9p/kWh for AD and 11.5 for AD with CHP. However, there are complexities involved in defining AD with CHP which would make it difficult to implement any associated proposed increase in ROCs at this time.

The European Commission has raised some concern over the proposed 4 NIROCS for hydro up to 100kW on the basis of over compensation. In response to these concerns, the Department has revised its ROC allocation for hydro as set out in the table below.

Given the very short time-frame for receiving State Aid approvals prior to laying the proposed Order, there remains a risk that State Aid approval will not be received in time for these amendments to be made. It should also be noted that DECC published its revised FIT levels on 1 February 2010. In most cases, the pence per kWh has risen slightly. As DETI had already submitted its proposed NIROCs to the European Commission for State Aid approval it has not been possible to reflect the increased GB figures in the NI levels.

The Department proposes, subject to State Aid approval, to implement the interim measures set out in the revised table below.

The Department recognises that a small number of existing generators will not benefit from the increased ROCs. The NIRO is a valuable and successful tool for incentivising more renewable electricity generation in Northern Ireland. The Department's view, which is consistent with that taken in the rest of the UK, is that developers will have taken long term decisions to invest based on the support available at that time and to enhance ROC levels for existing projects would not result in a corresponding increase in new renewable generation.

Nevertheless, the Department is prepared to consider any forthcoming evidence which suggests that banding levels need to be reviewed further for existing generators, however it would not be possible to introduce any further changes, if merited, before April 2011.

Revised table of support incorporating hydro amendments and revised GB FIT levels

	NIRO 2010	GB FIT	
		Consultation figures (p/kWh)	Actual figures announced 1/2/10 (p/kWh)
Existing Microgeneration (all technologies)	2 NIROCS	9	9
Wind Up to 250kW 250kW – 5MW	4 NIROCS 1 NIROC	18 – 30.5 4.5 - 16	18.8 – 34.5 4.5 – 18.8
Hydro Up to 20kW 20kW – 250kW 250kW – 1MW 1MW – 5MW	4 NIROCS 3 NIROCS 2 NIROCS 1 NIROC	12 -17 12 8.5 4.5	17.8 – 19.9 11 - 17.8 11 4.5
PV Up to 50kW 50kW – 5MW	4 NIROCS 2 NIROCS	28 - 31 26 - 28	31.4 - 36.1 29.3 - 31.4
Biomass Up to 50kW 50kW – 5MW	2 NIROCS 1.5 NIROCS	9 4.5	Not eligible for FIT
AD Up to 50kW 50kW – 5MW	2 NIROCS 2 NIROCS	9 9	11.5 9 – 11.5

CHAPTER 4: PROPOSED CHANGED TO GB OBLIGATIONS THAT IMPACT ON NI

Chapter 4 of the consultation dealt with three specific aspects which are relevant to renewables development in NI, but which will be effected through the GB RO rather than the NIRO because of current legislative constraints regarding the NIRO:

- Opening up the RO to generation outside the UK
- Raising the support level (for a limited period) for offshore wind from 1.5ROC/MWh
- Accounting for offshore wind transmission losses.

As these changes are matters for the GB Obligation and will be put in place by DECC, NI respondents were asked to contribute views directly to DECC. Here we provide a summary of DECC's Government response on these issues.

Opening up the RO to generation outside the UK

Following the announcement in the Renewable Energy Strategy (RES) to open the RO up to stations outside the UK, DECC used its consultation to set out some ideas of how this might work in practice. There was a mixed response to the opening up of the RO, with many feeling it would undermine the main objective of the scheme to bring forward and support UK-based renewable generation. Of those that were supportive, there were a number of concerns raised about how trading would work in practice and potential effects on the stability and integrity of the RO. There were suggestions for considering limiting eligibility further including:

- capping the amount of generation;
- limiting to generation from countries that had already met or exceeded their target; or
- ensuring that a further contribution was made to the UK in some way.

An overwhelming majority felt eligibility should be limited to generators with a direct connection to the UK to maintain some form of accountability and prevent gaming. A minority of respondents also pointed out that direct connection would not necessarily result in the least cost, most efficient resources coming forward and would potentially raise the cost to the UK consumer.

Respondents largely felt that stations located outside the UK should not receive a higher level of ROC support, and that if the argument to open up the RO was to meet the UK target more efficiently, then support levels should be lower. There was a feeling that ROCs should not be issued on transmission losses over very large distances or to compensate for connection costs. This area is still very much in development and it was clear to DECC from the consultation responses that there are a number of issues that need further, more detailed, consideration.

This area of work, although a reserved matter under the Northern Ireland Act given that it concerns relations with other countries, is of particular interest to Northern Ireland as the only

part of the UK with a land border with another country and the operation of the Single Electricity Market.

However, given the complexity of this area of policy and the need to come to a European consensus, DECC has decided to postpone opening up the RO. The views from the consultation will help inform how DECC takes this forward and further consultation is likely during 2010. DETI will ensure that the Northern Ireland position is represented in these considerations.

Increased banding for offshore wind

In response to concerns from the offshore wind industry that their costs had risen, making projects economically unviable, DECC commissioned Ernst & Young to carry out a study into the costs of offshore wind and their key drivers. The study reported in early April and suggested that a combination of supply chain and market factors had led to significant increases in costs over a relatively short period.

DECC's consultation proposed:

- 2 ROCs for projects signing a firm contract between 22nd April 2009 and 31st March 2010, with a foundation in the water by end 2011; and
- 1.75 ROCs for projects signing between 1st April 2010 and 31st March 2011, with a foundation in the water by end 2012.
- Projects signing contracts after 31st March 2011 or failing to get a foundation in the water by end 2012 would only be eligible for 1.5 ROCs (the current banding level).

The proposals were aimed at maintaining confidence, investment and build rates within the offshore wind sector, with positive implications for the health of the supply chain amongst other things. The key questions were around the cost of this change to consumers and the effect on other ROC market participants.

As currently framed, these proposals would not impact on Northern Ireland, as developments within Northern Ireland waters would not have reached that stage within the proposed timeframe for this enhanced support. While DETI can issue ROCs for renewable electricity generated onshore, the powers to issue ROCs in respect of offshore generation currently lie with DECC. This means that Northern Ireland, unlike Scotland, does not have the power to vary the ROC rates offered for offshore renewable electricity generation and the rates for England and Wales apply.

We consider that this affects the integrity of the NIRO and we have therefore stated, in another consultation⁵, that DETI would seek DECC's agreement, within the overall devolved settlement, to the transfer of the offshore ROC powers to Northern Ireland. However, for the moment, DECC will settle RO policy for offshore generation.

⁵ Available at www.offshoreenergyvni.co.uk

DECC has stated that the concerns expressed in response to its consultation regarding the scale and duration of the uplift, the proposed eligibility criteria and the potential effects on the market for operation and maintenance have led to some significant changes being proposed. In summary, these are that the uplift should remain at 2 ROCs, and that it should apply to projects which achieve accreditation between 1 April 2010 and 31 March 2014. This is because there is insufficient evidence that costs will come down over the short term in the way forecast, and a desire to avoid strategic pauses on the part of potential investors and projects.

It has also been decided to base eligibility upon accreditation rather than financial close, as this is more consistent with established practices under the Obligations. Neither was the financial close cut off date popular with respondents who had gone ahead on the basis of a level playing field at 1.5 ROCs/MWh, and who felt unfairly penalised as a result. The change to accreditation is designed to create a level playing field and prevent any unfair advantage. Those projects which applied for and achieved full accreditation before 1 April 2010 will not be eligible for the higher band.

CHAPTER 5: PRICE VOLATILITY

The consultation referred to DECC proposals for a revenue stabilisation mechanism that would benefit renewable generators by providing a predictable and adequate level of compensation. It was suggested that revenue stabilisation would lead to a reduction in excessive generator profits with a potential reduction in consumer bills; make renewables projects less risky for investment as removing or reducing the wholesale price risk would reduce overall revenue volatility; and encourage competition from more small players as managing the risks around a volatile wholesale price is a core source of competitive advantage for large integrated suppliers. If DECC was to take this proposal forward it would likely take the form of a contract for difference (CfD).

There was a mixed response to this proposal with the majority of respondents not in favour of a price stabilisation mechanism. Many felt that such a mechanism would only add further complexities to the NIRO leading to greater risk for investors.

These same views were expressed in the DECC and Scottish consultations and the Department welcomes DECC's proposal to commission further research to assess the costs and benefits of introducing a revenue stabilisation mechanism, reporting by the end of 2010. DETI believes that the Northern Ireland experience of CfD processes which operate within the SEM could contribute to this work and look forward to providing input to this further research.

LIST OF RESPONDENTS

Action Renewables
Airtricity
Association of Electricity Producers
B9 Energy
Biomass CHP
Biotricity
Blakiston Houston Estates
Bord Gais
British Hydropower Association
British Wind Energy Association
Centrica
Torr Christie
Council for Nature Conservation and the Countryside
Eaga
ESB International
ESB Wind Development
Alan Flack
Friends of the Earth
General Consumer Council for Northern Ireland
Greenville Energy
Grove House
GT Energy
H&A Mechanical Services
Hegarty Electrical
Inenco Group
Irish Wind Energy Association
Just Farm Energy Ltd
Kedco Energy NI Ltd
Linergy Ltd

Monarch Properties Ltd
Moore Biosystems
MT Waste Management and Manufacturing
NIE Energy Supply
North Antrim Environmental Systems Ltd
Northern Ireland Authority for Utility Regulation
Northern Ireland Energy Agency
Northern Ireland Environmental Link
NRG Solutions
OFGEM
OM Consulting
Pneutrol Ireland Ltd
Quinn Group
Renewable Energy Association
RES Ltd
Ross Planning
RSPB
RWE npower
Scottish Power
Southern Waste Management Partnership
Sustainable Energy Association
TNR Systems
Ulster Farmers Union
Viridian Power and Energy Ltd
Vykson
Waring Estate
WWF Northern Ireland

In addition, the Department received 41 identical responses from a mixture of private individuals and organisations.